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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,069	12/29/2003	Stavros Photios Basseas	8362/85877 (Parent) (BEL-	7945
24628	7590	09/07/2005	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			ENSEY, BRIAN	
			ART UNIT	PAPER NUMBER
			2646	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,069

Applicant(s)

BASSEAS, STAVROS PHOTIOS

Examiner

Brian Ensey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19,20,22-25 and 27-38 is/are rejected.
- 7) ☒ Claim(s) 21 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 5/19/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,674,867 B2 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

2. Claim 34 is objected to because of the following informalities: Claim 34 identifies a “third software for...” and does not reference a second software. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 19, 22, 23, 30, 31, 33, 34, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Widin et al. U.S. Patent No. RE. 34,961.

Regarding claim 19, Widin discloses a fitting system (32) for programming a separate hearing aid (10) comprising: a programmable processor and associated circuitry (34) for transferring parameters from the processor to a programmable hearing aid to specify the performance thereof (It is inherent that a programmable processor is present in the fitting system of Widin to execute the automated fitting program, See Fig. 4 and col. 6, lines 32-39); software executable by the processor for presenting pre-stored audio stimuli (110) to the hearing aid and circuitry for receipt of real-time feedback (134) from a user of the hearing aid, the feedback being related to the presented pre-stored audio stimuli; second software executable by the

processor responsive to the user feedback to modify the parameters of the hearing aid in accordance with that feedback(130,132, 118); and additional software (124) for downloading the modified parameters to the hearing aid thereby altering the performance thereof (See Figs. 4 and 5 and col. 6, line 32 to col. 8, line 41).

Regarding claims 22 and 23, Widin further discloses repetitively presenting the audio stimuli and in response to user feedback, repetitively modifying the parameters thereby providing an optimized set of parameters (See col. 7, lines 1-54).

Regarding claim 30, Widin discloses a fitting system (32) for establishing a set of performance defining parameters for a separate, programmable hearing aid (10) comprising: circuitry for downloading parameters (124) to and programming the hearing aid; circuitry for presenting pre-stored sound stimuli to the hearing aid (110) for user evaluation of the performance of the hearing aid using the programmed parameters; and circuitry for receiving user feedback of the pre-stored sound stimuli and for modifying the current set of parameters (130,132, 118) forming an updated set of parameters that are downloaded to the hearing aid (It is inherent that circuitry is present in the fitting system of Widin to execute the automated fitting program and download data between the fitting system and hearing aid (See Figs. 4 and 5 and col. 6, line 32 to col. 8, line 41).

Regarding claims 31 and 33, Widin further discloses circuitry for retrieving the pre-stored sound stimuli (110) to be presented to the user and a programmed processor for providing an initial parameter set for the hearing aid (It is inherent that circuitry is present to execute the software for providing the pre-stored audio stimuli and initial parameter set, See col.6, lines 32-45).

Regarding claim 34, Widin discloses a fitting system (32) for programming a separate hearing aid (10) comprising: software for presenting pre-stored audio stimuli (110) to a

programmable hearing aid and circuitry for receipt of real-time feedback from the hearing aid user relative to the presented pre-stored audio stimuli; circuitry responsive to the user feedback to modify a current set of parameters of the hearing aid (130,132, 118); and third software for downloading the modified parameters (124) to the hearing aid thereby altering the characteristics thereof (It is inherent that circuitry is present in the fitting system of Widin to execute the automated fitting program and download data between the fitting system and hearing aid (See Figs. 4 and 5 and col. 6, line 32 to col. 8, line 41).

Regarding claim 36, Widin further discloses additional circuitry to repetitively modify the parameters (It is inherent that additional circuitry is present in the fitting system of Widin to execute the repetitively modified parameters, See col. 7, lines 1-54).

Regarding claim 37, Widin discloses a method of optimizing a set of parameters for a programmable hearing aid comprising: a) presenting pre-stored audio stimuli (110) to a hearing aid programmed with a set of parameters; b) receiving feedback responsive to the stimuli from a user of the hearing aid (134); c) processing the user feedback and altering the existing set of parameters of the hearing aid in response thereto (130,132,118); d) transferring the altered set of parameters to the hearing aid (124); and repeating steps a) through d) (See Figs. 4 and 5 and col. 6, line 32 to col. 8, line 41).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 20, 24, 25, 27-29, 32, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Widin as applied to claim 19, 30, 34 and 37 above, and further in view of Weinfurtner U.S. Patent No. 5,606,620.

Regarding claims 20, 32, 35 and 38, Widin does not expressly disclose the second software implements fuzzy logic processing in responding to user feedback. However, Weinfurtner teaches a fitting system for a programmable hearing aid utilizing fuzzy logic processing to meaningfully adapt the hearing aid settings (See Fig. 1 and col. 2, lines 17-25 and col. 3, lines 14-23). It would have been obvious to one of ordinary skill in the art at the time of the invention that software instructions are used to set up and operate a fuzzy logic data processing module to optimize the hearing aid parameters.

Regarding claim 24, Widin discloses a fitting system (32) for programming a separate hearing aid (10) comprising: circuitry couplable to a hearing aid that is programmable with parameters to specify the performance thereof; software (34) executable by the circuitry for presenting pre-stored audio stimuli (110) to the hearing aid and for receipt of real-time feedback (134) from a user of the hearing aid, the feedback being related to the presented pre-stored audio stimuli; second software executable by the circuitry for implementing processing for responding to the user feedback to modify at least one parameter (130, 132, 118) of the hearing aid in accordance with that feedback; and additional software for downloading (124) the modified at least one parameter to the hearing aid thereby altering the performance thereof. Widin does not expressly disclose fuzzy logic processing for responding to the user feedback to modify at least one parameter of the hearing aid in accordance with that feedback. However, Weinfurtner teaches a fitting system for a programmable hearing aid utilizing fuzzy logic processing to meaningfully adapt the hearing aid settings (See Fig. 1 and col. 2, lines 17-25 and col. 3, lines 14-23). It would have been obvious to one of ordinary skill in the art at the time of the invention

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that software instructions are used to set up and operate a fuzzy logic data processing module to optimize the hearing aid parameters.

Regarding claim 25, Widin further discloses software executable by the processor for establishing an initial set of parameters (See col. 6, lines 32-39).

Regarding claim 27, Widin further discloses further software for repetitively presenting the audio stimuli and in response to user feedback, repetitively modifying the parameters thereby providing an optimized set of parameters (See col. 7, lines 1-54).

Regarding claims 28 and 29, Widin does not expressly disclose circuitry comprises a processor for executing the software or for retrieving the pre-stored audio stimuli. However, it would have been obvious to one of ordinary skill in the art at the time of the invention that a processor and circuitry must be present to execute the software as taught by Widin.

Allowable Subject Matter

5. Claims 21 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 19-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231


Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to: Customer Service Window, Randolph Building, 401 Dulany Street, Arlington, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKE
September 2, 2005


SINH TRAN
SUPERVISORY PATENT EXAMINER